

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

October 16, 2000

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices  
Richard Huffman and James McIntyre  
Deputy Clerk: D. E. Moore

**D033901        People v. Wallace**

Cause called on merits. John L. Staley, Esq. argued for appellant. Melissa Mandel, Deputy Attorney  
General argued for respondent. Cause submitted.

**D034005        Newmann, et al. v. Oceanside Manufactured Home Fair Practices Commission**

Cause called on merits. Charles Campbell, Esq. argued for appellant. Donald R. Lincoln, Esq. argued for  
respondent. Mr. Campbell replied for appellant. Cause submitted.

Court recessed at 9:39 a.m. to change panel members. New panel members: The Honorable  
Daniel Kremer, Presiding Justice and The Honorable Associate Justices Judith Haller and James McIntyre

**D035392        Hooser v. Superior Court/Ray-RPI**

Matter called on merits. No appearance by petitioner, in pro per Eugene Hooser. Andrew Philip Dunk,  
Esq. argued for respondent. Matter submitted.

Court recessed at 10 a.m. to change panel members. New panel members: The Honorable  
Patricia Benke, Acting Presiding Justice and The Honorable Associate Justices Richard Huffman  
and Judith Haller

**D033911        Vanderpas v. Baxter Healthcare Corporation, Inc.**

Cause called on merits. Robert Smith, Esq. argued for respondent. Roy B. Cannon argued for appellant.  
Mr. Smith replied. Cause submitted.

Court recessed at 10:25 a.m. until 1:30 p.m.

**D033129        People v. Demerson**

Judgment affirmed. McDonald, J.; We Concur: Kremer, P.J., McIntyre, J.

**D034260        People v. Carter**

The judgment is affirmed. O'Rourke, J.; We Concur: Work, Acting P.J., McIntyre, J.

**D033290        People v. Mayes**

The judgment is affirmed. Work, J.; We Concur: Kremer, P.J., Huffman, J.

**D034503        In re Benito M., a Juvenile**

The juvenile court's order is affirmed. Work, Acting P.J.; We Concur: Huffman, J., O'Rourke, J.

Court reconvened at 1:30 p.m.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

October 16, 2000 (Continued)

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices  
James McIntyre and Terry O'Rourke  
Deputy Clerk: D. E. Moore

**D035478        In re Liam L., a Juvenile**

Cause called on merits. Kathryn Krug, Deputy County Counsel argued for appellant. Linda Fabian, Esq. argued for respondent/father. Suzanne Evans, Esq. argued for minor. Ms. Krug replied for appellant. Cause submitted.

Court recessed at 1:55 p.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre

**D031338)        Poway Land, Inc. v. Poway Redevelopment Agency**

**D034233)        Poway Land, Inc. v. Poway Redevelopment Agency**

**D033274)        Poway Land, Inc. v. Poway Redevelopment Agency**

Cause called on merits. David B. Oberholtzer, Esq. argued for appellant. Donald J. Hamman, Esq. argued for respondent. Mr. Oberholtzer replied for appellant. Cause submitted.

Court adjourned at 2:30 p.m.

**D034346        People v. Frazee**

The judgment is affirmed. Kremer, P.J.; We Concur: Work, J., McDonald, J.

**D035111        Gamble et al. v. Board of Retirement of the San Diego County Employees' Retirement Association et al.**

The petition for rehearing is denied.

**D033004        People v. Stephens**

The petition for rehearing is denied.

**D034427        People v. Smith**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Nares, J., O'Rourke, J.

**D034227        Scripps Health v. Andros International, Inc.**

The petition for rehearing and request for publication are denied.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

October 17, 2000

**D036376        Struck et al. v. Franchise Tax Board et al.**

Pursuant to California Rules of Court, rules 10(a) and (c), the appeal filed September 11, 2000, is dismissed for appellants' failure to timely pay the filing fee or designate the record (Cal. Rules of Court, Rules 1(c), 4(a) and 5(a)).

**D034075        Marriage of Johnson**

**D034359        Marriage of Johnson**

The judgment is affirmed. Appellant to pay costs on appeal. O'Rourke, J.;  
We Concur: Work, Acting P.J., Haller, J.

**D035398        In re Ryan P. et al., Juveniles**

The order is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., Haller, J.

**D035264        People v. Alcoser**

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., Haller, J.

**D032878        Golden Eagle Insurance Company et al. v. Insurance Company of the West et al.**

The request for publication of the opinion is denied.

**D036245        Williams v. Department of Motor Vehicles**

Pursuant to California Rules of Court, rule 10(c), the appeal filed August 18, 2000, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)).

**D035275        Marriage of Franklin**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a).  
The appeal is dismissed.

**D033079        TCR Services, Inc. v. ECO Imaging et al.**

The petition for rehearing is denied.

**D034978        People v. Kruse**

Upon filing an abandonment of appeal, the appeal is dismissed.

**D035208        Navarro et al. v. Donle Corporation et al.**

**D035209        Simo et al. v. Donle Corporation et al.**

Upon filing a written abandonment of appeal, the appeal is dismissed.

**D035476        Lammers v. Superior Court/Lammers**

Order modifying opinion and denying rehearing (no change in judgment).

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

October 18, 2000

**D033900        People v. Rivera**

The judgment is reversed. Huffman, J.; We Concur: Haller, J., McIntyre, J.

**D034605        Viray v. United States Bank National, C/O Washington Mutual Bank**

The judgment of dismissal is affirmed. Each party shall bear their own costs on appeal. Huffman, J.; We Concur: Benke, Acting P.J., McIntyre, J.

**D033521        Bite, Inc., v. First National Bank**

The petition for rehearing is denied.

**D036603        City Council of the City of San Diego v. Superior Court/Shapiro**

The petition is denied.

**D034124        US/MEX Manufacturing Corporation v. Clicker Corporation et al.**

The order is reversed and remanded for further proceedings consistent with this opinion. Each party shall bear its own costs on appeal.

**D035369        Azure Investors v. JohnB Corporation**

**D035401        JohnB Corporation v. Superior Court/Azure Investors**

The petition for writ of mandate, D035401, JohnB Corporation v. Superior Court, is consolidated with the appeal, D035369, Azure Investors v. JohnB Corporation.

**D035369        Azure Investors v. JohnB Corporation**

**D035401        JohnB Corporation v. Superior Court/Azure Investors**

The judgment is reversed and the petition for writ of mandate is dismissed as moot. Costs on appeal are awarded to appellant. McIntyre, J.; We Concur: Work, Acting P.J., McDonald, J.

**D033265        People v. Gorman**

**D035273        In re Gorman on Habeas Corpus**

Order modifying opinion [no change in judgment].

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

October 19, 2000

**D036256        James F. v. San Diego County Superior Court/San Diego County Health and Human Services Agency**

The petition is denied. Huffman, Acting P.J.; We Concur: Nares, J., Haller, J.

**D033433        Melez v. Bristol-Myers Squibb Company et al.**

The petition for rehearing is denied.

**D036601        Pierson v. Superior Court of San Diego County/Pierson**

The petition is denied.

**D033261        People v. Fear**

The abstract of judgment is ordered modified to delete the one-year prison prior (Pen. Code, section 667.5, subd. (b)) for a corrected total term of thirty years to life and corrected copies are to be furnished to the appropriate parties. In all other respects, the judgment is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., Haller, J.

**D036561        People v. Johnson**

The denial of a writ of habeas corpus is not appealable. The appeal is dismissed.

**D033814        Faulds v. Union Bank of California**

The judgment is affirmed. Bank is to recover costs on appeal.

**D036606        Lavoie v. San Diego County Superior Court/Pacific Reo**

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

October 20, 2000

**D035710        In re Issac E., a Juvenile**

Judgment affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D033314        People v. McGee**

The opinion filed October 12, 2000, is modified as follows: The second sentence of the first full paragraph on page 23 is modified to read: "As to the third factor, the evidence regarding the Edwards robbery was stronger than the evidence on the Moerder robbery." There is no change in the judgment.

**D034549        Clark v. Baxter Healthcare Corporation et al.**

Order denying petition for rehearing and modifying opinion (no change in judgment)

**D036557        Rite Aid Corporation et al. v. San Diego County Superior Court/Albrecht**

The petition is denied.